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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,622	09/29/2000	Arvind Kumar	42390P9709	9572

7590 01/29/2007  
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Los Angeles, CA 90025-1026

EXAMINER
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PRIETO, BEATRIZ

ART UNIT	PAPER NUMBER
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2142

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/675,622

Applicant(s)

KUMAR, ARVIND

Examiner

Prieto B.

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3 and 4 is/are allowed.
- 6) ☒ Claim(s) 5, 8-9 is/are rejected.
- 7) ☒ Claim(s) 5,8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



***Detailed Action***

***Claim Rejection under 35 USC 101***

1. Claims 5 and 8-9 are rejected under 35 U.S.C. § 101 which reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 5 and 8-9 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In this case, "A computer readable medium having instructions thereon which when executed perform the steps of: <useful method>..." would normally be considered **statutory** unless the specification defines "computer readable medium" as including **intangible media** such as signals, carrier waves, transmissions, optical waves, transmission media or other media incapable of being touched or perceived absent the tangible medium through which they are conveyed (see MPEP 2106).

The claims mentioned above are not limited to tangible embodiments. Specifically, in view of the specifications page 5, lines 11-17, the computer-readable medium/media is not limited to tangible embodiments, instead it has been defined/exemplified as including both tangible embodiments [e.g. read only memory (ROM); random access memory (RAM); magnetic disk storage media; optical storage media; flash memory devices] and intangible embodiments [e.g. carrier waves, infrared signals, digital signals, etc]. As such the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of rejection, the claim(s) need to be amended to include only the physical computer media and not the transmission media or other intangible or non-functional media (e.g. storage media).

3. Claims 1, 3-4 are allowable and contingent that Applicant's response to this office action does not amend the claims in any shape or form, other than to comply with this office action requirement.

4. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

5. Claims 5 and 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101 set forth in this Office action and contingent that Applicant's response to this office action does not amend the claims in any shape or form, other than to comply with this office action requirement.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Thursday from 5:30 to 2:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Andrew T. Caldwell can be reached at (571) 272-3868. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
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Alexandria, VA 22313-1450

Hand carried or delivered to:

Customer Service Window located at the Randolph Bldg.  
401 Dulany St.  
Alexandria, VA 22314

Faxed to the Central Fax Office:

(571) 273-8300 (New Central Fax No.)

Or Telephone:

(571) 272-2100 for TC 2100 Customer Service Office.

B. Prieto  
Primary Examiner  
TC 2100  
January 24, 2007

  
BEATRIZ PRIETO  
PRIMARY EXAMINER